IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

WRIT PETITION NO. 2941 OF 2004

Nagdevi Kamgar Sabha ... Petitioner

Vs.

M/s.Motilal Laxmichand Sanghavi
and Ors. ... Respondents

Mr. Vinod Shetty for Petitioner.

Mr. V.P. Vaidya for Respondents.

CORAM : F.I. REBELLO,J.
DATED : NOVEMBER 01, 2004

P.C.

1. Rule. By consent heard forthwith.

2. The Petitioners herein had applied for production of document listed at Exh. U31 and U33. By order dated 23.1.2004 the learned Industrial Court was pleased to reject the production of the documents for the reasons set out therein. The application for review came to be preferred on 26.5.2004. That was dismissed by order dated 26.5.2004 and consequently the present writ petition.

3. At the hearing of this petition, on behalf of the Petitioner it is pointed out that two compilations have been handed over, one compilation of documents on record and Exh. 2 compilation of documents which is not taken on record and sought to be produced. Documents at Sr. Nos. A to M and

O before the Industrial Court, were marked as Exh. 31 and documents in the compilation as N was marked as Exh. 33 of compilation Exh. 2. The learned counsel for the Petitioner points out from the affidavits filed on behalf of the Respondents that if the averments in the affidavit are perused, there is acknowledgement of receipt and the reply to the show cause notice which in fact are documents A to M of compilation 2 and Exh. 33 under Item N are the acknowledgement cards thereof. It is therefore, clear that the Respondent would not be prejudiced if the said documents are taken on record. In so far as document at O is concerned, it is letter written by the Union to the I.O. The objection to taking the said document on record on behalf of the Respondent is that though the witnesses examined on behalf of the Petitioners herein were examined on that aspect, they did not refer to any other document and in the light of that the respondent chose not to further cross examine the said witnesses. It is true that the Petitioners must annex the list of document or make them available on the first available opportunity. However, considering the cause shown by the Petitioners, ends of justice would be met if the said document is also allowed to be filed in the evidence. It is made clear that by permitting the petitioners to produce documents, it does not mean that this court has accepted the genuineness of the said documents. That will have to be proved before

the Industrial Court and then for the Industrial Court to consider whether the evidence sought to be produced should be accepted or not.

4. Considering the fact that the additional evidence is sought to be brought on record, ends of justice would require that if the respondents are so advised, they may apply for recalling the two witnesses examined on behalf of the Petitioner for further cross examination after the documents are marked as exhibits. In the light of that the following order :

5. Petition made absolute in terms of Prayer Clauses (a) and (b) with further directions as set out in the body of this judgement. No order as to costs.

6. All parties to act on the copy of this order authenticated by the Personal Secretary.

(F.I. REBELLO,J.)